

EXHIBIT 1

INTRODUCTION

Respondent R. Fair & Associates is a lobbying firm located in Sacramento. Respondent Reginald Fair is a registered lobbyist and the owner of R. Fair and Associates. From April 30, 1998 through December 30, 2000, Respondents failed to file or timely file 11 Lobbying Firm Reports. This matter arose from a referral from the Secretary of State's Office and from a Franchise Tax Board audit.

For purposes of this stipulation, the violations of the Political Reform Act ("Act")¹ are stated as follows:

- COUNT 1: Respondents failed to file a Lobbying Firm Report (Form 625) for the quarter ending March 31, 1998, by the April 30, 1998 due date, in violation of Section 86117.
- COUNT 2: Respondents failed to file a Lobbying Firm Report (Form 625) for the quarter ending June 30, 1998, by the July 31, 1998 due date, in violation of Section 86117.
- COUNT 3: Respondents failed to file a Lobbying Firm Report (Form 625) for the quarter ending September 30, 1998, by the October 31, 1998 due date, in violation of Section 86117.
- COUNT 4: Respondents failed to file a Lobbying Firm Report (Form 625) for the quarter ending December 31, 1998, by the January 31, 1999 due date, in violation of Section 86117.
- COUNT 5: Respondents failed to timely file a Lobbying Firm Report (Form 625) for the quarter ending March 31, 1999, by the April 30, 1999 due date, in violation of Section 86117.
- COUNT 6: Respondents failed to timely file a Lobbying Firm Report (Form 625) for the quarter ending June 30, 1999, by the July 31, 1999 due date, in violation of Section 86117.
- COUNT 7: Respondents failed to timely file a Lobbying Firm Report (Form 625) for the quarter ending September 30, 1999, by the October 31, 1999 due date, in violation of Section 86117.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

- COUNT 8: Respondents failed to timely file a Lobbying Firm Report (Form 625) for the quarter ending December 31, 1999, by the January 31, 2000 due date, in violation of Section 86117.
- COUNT 9: Respondents failed to timely file a Lobbying Firm Report (Form 625) for the quarter ending March 31, 2000, by the April 30, 2000 due date, in violation of Section 86117.
- COUNT 10: Respondents failed to timely file a Lobbying Firm Report (Form 625) for the quarter ending June 30, 2000, by the July 31, 2000 due date, in violation of Section 86117.
- COUNT 11: Respondents failed to timely file a Lobbying Firm Report (Form 625) for the quarter ending September 30, 2000, by the October 31, 2000 due date, in violation of Section 86117.
- COUNT 12: Respondents failed to maintain the detailed accounts, records, bills and receipts that are necessary to comply with the lobbying reporting provisions of the Act, for the reporting periods of January 1, 1997 through December 31, 1998, in violation of Section 86110.

SUMMARY OF THE LAW

The Act requires registration and reporting by individuals and entities that make or receive payments for the purpose of influencing decisions of the State Legislature and state administrative agencies under the lobbying provisions contained in Sections 86100 through 86300.

Duty to File Reports Disclosing Lobbying Activity

Pursuant to Section 82039, a “lobbyist” is an individual who receives \$2,000 or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, or whose principal duties as an employee are to communicate directly or through his or her agents with any elective state official, agency official, or legislative official, for the purpose of influencing legislative or administrative action. Section 86100, subdivision (a) states that “individual lobbyists shall prepare lobbyist certifications . . . for filing with the Secretary of State as part of the registration of the lobbying firm in which the lobbyist is a partner, owner, officer, or employee or as part of the registration of the lobbyist employer by which the lobbyist is employed.”

Section 82038.5, subdivision (a)(1) defines a “lobbying firm” as a business entity that “receives or becomes entitled to receive any compensation . . . for the purpose of influencing legislative or administrative action on behalf of any other person, and any partner, owner, officer, or employee of the business entity.” Section 86100, subdivision (b) states that lobbying firms shall register with the Secretary of State.

Section 86113, subdivision (a) requires a lobbyist to complete and verify a periodic report, Lobbyist Report (Form 615), which contains a report of all activity expenses by the lobbyist during the reporting period, and a report of all contributions of one hundred dollars or more made or delivered by the lobbyist to any elected state officer or state candidate during the reporting period. The lobbyist must “provide the original of his or her periodic report to his or her lobbyist employer or lobbying firm within two weeks following the end of each calendar quarter.” (Section 86113, subd. (b).) The lobbyist must file the original and one copy of each report with the Secretary of State. (Section 86118.)

Section 86114, subdivision (a) requires a lobbying firm to file a periodic report, Lobbying Firm Report (Form 625), disclosing the firm’s activity. The lobbying firm must attach to its Lobbying Firm Report, a Lobbyist Report completed for each partner, owner, officer, or employee of the lobbying firm who qualifies as a lobbyist. (Section 86114, subd. (a)(4).) Pursuant to Section 86117, the Lobbying Firm Report must be filed during the month following the end of each calendar quarter.

Duty to Maintain Detailed Accounts, Records, Bills and Receipts

To ensure accurate lobbyist reporting, Section 86110 imposes a mandatory duty on each lobbyist, lobbying firm, and lobbyist employer to maintain detailed accounts, records, bills and receipts that are necessary to prepare lobbying reports and to comply with the lobbyist reporting provisions of the Act. Pursuant to Regulation 18610, subdivision (b)(1), this duty includes maintenance of detailed information and original source documentation for the lobbyist’s activities, such as receipts, invoices and cancelled checks.

Liability of Third Parties

Section 83116.5 states that any person who violates, or who purposely or negligently causes another to violate, any provision of the Act shall be liable for the violation, so long as that person has filing or reporting obligations under the Act, or is compensated for services involving the planning, organizing, or directing of any activity regulated or required by the Act.

SUMMARY OF THE FACTS

Respondent Reginald Fair has been a registered lobbyist since 1995. Respondent R. Fair & Associates has been a registered lobbying firm since 1995. At all relevant times Respondent Reginald Fair was the owner and the only lobbyist employed by the firm of R. Fair & Associates.

COUNTS 1 – 11

Failure to File Lobbying and Lobbyist Firm Reports

Respondents failed to file, or failed to timely file, 11 quarterly Lobbying Firm Reports between April 30, 1998 and December 30, 2000, as follows:

Count	Reporting Period	Report Required To Be Filed	Date Due	Date Filed
1	1-1-98 to 3-31-98	Lobbying Firm Report	4-30-98	Not Filed
2	4-1-98 to 6-30-98	Lobbying Firm Report	7-31-98	Not Filed
3	7-1-98 to 9-30-98	Lobbying Firm Report	10-31-98	Not Filed
4	10-1-98 to 12-31-98	Lobbying Firm Report	1-31-99	Not Filed
5	1-1-99 to 3-31-99	Lobbying Firm Report	4-30-99	11-22-00
6	4-1-99 to 6-30-99	Lobbying Firm Report	7-31-99	11-22-00
7	7-1-99 to 9-30-99	Lobbying Firm Report	10-31-99	11-22-00
8	10-1-99 to 12-31-99	Lobbying Firm Report	1-31-00	11-22-00
9	1-1-00 to 3-31-00	Lobbying Firm Report	4-30-00	11-22-00
10	4-1-00 to 6-30-00	Lobbying Firm Report	7-31-00	11-22-00
11	7-1-00 to 9-30-00	Lobbying Firm Report	10-31-00	11-22-00

For each of the five quarterly reports due from January 1, 1999 through April 30, 2000, the Secretary of State's Office sent Respondents two letters advising Respondents that the reports were past due. The second letter, for each of the five quarterly reports, advised Respondents that failure to file the reports would result in a referral to the Fair Political Practices Commission's Enforcement Division.

On November 13, 2000, after conducting further investigation, Political Reform Consultant Colleen McGee of the Enforcement Division spoke with Respondent Reginald Fair. Ms. McGee advised Respondent that he failed to file seven quarterly Lobbying Firm Reports from January 1, 1999 through October 31, 2000. Respondent Fair had "no excuse why he did not file." On November 22, 2000, Respondents filed the seven Lobbying Firm Reports for the preceding seven periods from January 1, 1999 through October 31, 2000. However, these filings were not complete, as Respondents failed to attach the required Lobbyist Reports (Form 615) disclosing the lobbying activities of Respondent Reginald Fair for each of the periods.

Respondents' failure to file or timely file 11 Lobbying Firm Reports constitutes 11 violations of Section 86117.

COUNT 12 **Failure to Maintain Necessary Records**

From January 1, 1997 through December 31, 1998, Respondents failed to maintain records of clients' checks, deposit slips, bank statements, etc, to substantiate the payments received by Respondents from their clients during that time. Respondents' failure to maintain records to substantiate payments received by them between January 1, 1997 and December 31, 1998 constitutes one violation of Section 86110.

CONCLUSION

Immediately after the November 13, 2000 request by Ms. McGee to file the delinquent Lobbying Firm Reports, Respondents filed seven Lobbying Firm Reports for the reporting

periods between January 1, 1999 and September 30, 2000. However, Respondents' filings were not complete as they failed to attach a Lobbyist Report for Respondent Reginald Fair, which would have disclosed political contributions of \$100 or more made by Respondent Reginald Fair.

At the time of the violations, Respondents timely filed their Lobbying Firm Registration Statement (Form 601), disclosing the lobbyist employers that had retained their services. The lobbyist employers also timely filed their Lobbyist Employer Reports (Form 635), which disclosed the amount paid to Respondents each quarter. Therefore, the identity of Respondents' lobbyist employers, and the amount paid to Respondents each quarter by these employers, was information that was available to the public, despite Respondents' filing violations.

Since Respondent Fair spoke with Ms. McGee on November 13, 2000, four quarterly Lobbying Firm Reports became due. Respondents timely filed those four reports, and properly attached a Lobbyist Report to each of them.

This matter consists of 12 counts, which carry a maximum possible administrative penalty of twenty-four thousand dollars (\$24,000).

Regarding counts one through eleven, the typical administrative penalty for failing to file, or for failing to timely file, a quarterly Lobbying Firm Report ranges from \$1,000 to \$1,500 per count. As Respondents filed the Lobbying Firm Reports requested by Ms. McGee, and have timely filed all reports since being contacted by Ms. McGee, a penalty in the middle of that range, at \$1,200 per count, is appropriate.

Regarding count twelve, the typical administrative penalty for failing to maintain records ranges from \$500 to \$1,000 per count. As Respondents failed to maintain records for two years, a penalty of \$800 is appropriate.

Accordingly, the facts of this case, as well as the aforementioned factors, justify imposition of the agreed upon penalty of fourteen thousand dollars (\$14,000).